

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

3/29/84

IN RE:	)	
	)	CHAPTER 11
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	CASE NO. 82-04654A
	)	
Debtor	)	
<hr/>		
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	
	)	
Plaintiff,	)	
	)	ADVERSARY PROCEEDING
v.	)	
	)	NO. 84-0246A
WILLIAM D. RUCKELSHAUS,	)	
Administrator, United States	)	
Environmental Protection	)	
Agency, and UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Defendants	)	
<hr/>		

MOTION OF CREDITORS' COMMITTEE TO  
INTERVENE IN AN ADVERSARY PROCEEDING

COMES NOW the CREDITORS' COMMITTEE (hereinafter referred to as "CC") and, pursuant to Bankruptcy Code Section 1109(b), Rule 7024 of the Bankruptcy Rules, Rule 24 of the Federal Rules of Civil Procedure and other applicable law and rules, files this its "Motion of the Creditors' Committee to Intervene in an Adversary Proceeding" (hereinafter referred to as "Motion") and shows this Honorable Court as follows:



1.

CC is the duly acting Creditors' Committee in the captioned Chapter 11 Bankruptcy case.

2.

By virtue of its position as the CC in the case and Section 1109(b) of the Bankruptcy Code, codified as 11 U.S.C. §1109(b), confers upon CC an unconditional right to intervene in the captioned Adversary Proceeding pursuant to Bankruptcy Rule 7024, Rule 24(a), FRCP and other applicable law and rules.

3.

The property which is the subject of the captioned Adversary Proceeding is critical to the successful reorganization of this Debtor. The CC is so situated that the disposition of the Adversary Proceeding may, as a practical matter, impair or impede its ability to protect the interests of unsecured creditors whose interests are not adequately represented by the existing parties to said Adversary Proceeding. CC is entitled, as of right, pursuant to Bankruptcy Rule 7024, Rule 24(a), FRCP and other applicable law and rules, to intervene in said Adversary Proceeding.

4.

To the extent that Section 1109(b) of the Bankruptcy Code, codified as 11 U.S.C. §1109(b), is construed by this Court to confer upon CC only a conditional right to intervene

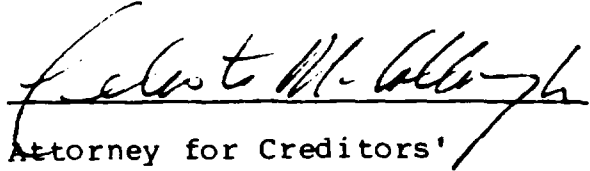
in this Adversary Proceeding, then CC should be permitted to intervene in the proceeding pursuant to Bankruptcy Rule 7024, Rule 24(b), FRCP and other applicable law and rules.

5.

Intervention by CC will not unduly delay or prejudice the adjudication of the rights of the original parties to said Adversary Proceeding.

WHEREFORE, CC respectfully requests that this Court enter an order declaring that CC should be and is entitled to intervene in the captioned Adversary Proceeding as a matter of right and/or, in the alternative, should be permitted to intervene in said proceeding.

Respectfully submitted,

  
Attorney for Creditors'  
Committee

OF COUNSEL:

William G. McDaniel  
Celeste McCollough  
McDANIEL, CHOREY & TAYLOR  
A Professional Corporation  
Suite 500, Candler Building  
127 Peachtree Street, NE  
Atlanta, Georgia 30303  
(404) 588-0070

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	
	)	CHAPTER 11
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	CASE NO. 82-04654A
	)	
Debtor	)	
<hr/>		
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	
	)	
Plaintiff,	)	
	)	ADVERSARY PROCEEDING
v.	)	
	)	NO. 84-0246A
WILLIAM D. RUCKELSHAUS,	)	
Administrator, United States	)	
Environmental Protection	)	
Agency, and UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Defendants	)	
<hr/>		

BRIEF OF CREDITORS' COMMITTEE  
IN SUPPORT OF ITS MOTION TO INTERVENE IN  
THE ABOVE-REFERENCED ADVERSARY PROCEEDING

COMES NOW Creditors' Committee (hereinafter "CC")  
and files this its "Brief of Creditors' Committee in Support  
of Its Motion to Intervene in the Above-Referenced Adversary  
Proceeding" (hereinafter "Brief") and shows:

Section 1109(b) of the Bankruptcy Code, codified as  
11 U.S.C. §1109(b), confers upon a Creditors' Committee an

unconditional right to intervene and be heard. Bankruptcy Rule 7024 incorporates Rule 24(a) of the Federal Rules of Civil Procedure (hereinafter "F.R.C.P."). Rule 24(a), F.R.C.P. allows intervention as a matter of right when a statute, such as 11 U.S.C. §1109(b) confers such an unconditional right to intervene. In addition, CC meets the requirements of Rule 24(a)(2), F.R.C.P. in that it claims it represents unsecured creditors with a vital interest in the outcome of this Reorganization. The case is so situated that the disposition of the Adversary Proceeding may as a practical matter impair or impede Debtor's ability to promulgate a Plan and, finally, CC does not believe that its interest is adequately represented by the existing parties to said Adversary Proceeding.

In addition, if the Court finds that there is no intervention of right under Rule 24(a), F.R.C.P., then CC is entitled to intervene pursuant to Rule 24(b)(1) in that 11 U.S.C. §1109(b) does, at a minimum, confer a conditional right to intervene in the above-referenced Adversary Proceeding.

For all of the reasons stated, CC respectfully requests that this Court enter an order declaring that CC should be and is entitled to intervene in the above-styled Adversary Proceeding as a matter of right and/or, in the

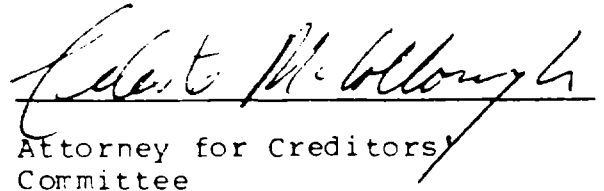
unconditional right to intervene and be heard. Bankruptcy Rule 7024 incorporates Rule 24(a) of the Federal Rules of Civil Procedure (hereinafter "F.R.C.P."). Rule 24(a), F.R.C.P. allows intervention as a matter of right when a statute, such as 11 U.S.C. §1109(b) confers such an unconditional right to intervene. In addition, CC meets the requirements of Rule 24(a)(2), F.R.C.P. in that it claims it represents unsecured creditors with a vital interest in the outcome of this Reorganization. The case is so situated that the disposition of the Adversary Proceeding may as a practical matter impair or impede Debtor's ability to promulgate a Plan and, finally, CC does not believe that its interest is adequately represented by the existing parties to said Adversary Proceeding.

In addition, if the Court finds that there is no intervention of right under Rule 24(a), F.R.C.P., then CC is entitled to intervene pursuant to Rule 24(b)(1) in that 11 U.S.C. §1109(b) does, at a minimum, confer a conditional right to intervene in the above-referenced Adversary Proceeding.

For all of the reasons stated, CC respectfully requests that this Court enter an order declaring that CC should be and is entitled to intervene in the above-styled Adversary Proceeding as a matter of right and/or, in the

alternative, should be permitted to intervene in said Proceeding.

Respectfully submitted,

  
Attorney for Creditors  
Committee

OF COUNSEL:

William G. McDaniel  
Celeste McCollough  
McDANIEL, CHOREY & TAYLOR  
A Professional Corporation  
Suite 500, Candler Building  
127 Peachtree Street, NE  
Atlanta, Georgia 30303  
(404) 588-0070

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	
	)	CHAPTER 11
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	JUDGE HUGH ROBINSON
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	CASE NO. 82-04654A
	)	
Debtor	)	
<hr/>		
TARACORP, INC., a/k/a	)	
EVANS METAL COMPANY,	)	
SEITZINGERS, IMACO and	)	
TARACORP INDUSTRIES,	)	
	)	
Plaintiff,	)	
	)	ADVERSARY PROCEEDING
v.	)	
	)	NO. 84-0246A
WILLIAM D. RUCKELSHAUS,	)	
Administrator, United States	)	
Environmental Protection	)	
Agency, and UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY,	)	
	)	
Defendants	)	
<hr/>		

ORDER

It is hereby Ordered that the Motion of the Creditors' Committee to intervene in the captioned adversary proceeding as a party plaintiff is granted. Bankruptcy Code 1109(b), Bankruptcy Rule 7024, Federal Rule of Civil Procedure, Rule 24.

SO ORDERED AT ATLANTA, GEORGIA this \_\_\_\_ day of

\_\_\_\_, 1984.

\_\_\_\_\_  
Hugh Robinson  
United States Bankruptcy Judge



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the below-listed counsel with a copy of Motion of Creditors' Committee to Intervene in an Adversary Proceeding, Brief in Support thereof and proposed Order, by placing same in the United States mail postage prepaid, properly addressed as follows:

Stacey W. Cotton, Esquire  
Cotton, White & Palmer  
46 Fifth Street, NE  
Atlanta, Georgia 30365

The Honorable  
Gary R. Siedor  
Assitant Attorney General  
State of Illinois  
500 South 2nd Street  
Springfield, Illinois 62706

Gary B. Krueger, Esquire  
904 Myers Building  
Springfield, Illinois 62701

S. Jarvin Levison, Esquire  
Arnall, Golden & Gregory  
55 Park Place, Suite 400  
Atlanta, Georgia 30335

Morris W. Macey, Esquire  
Macey & Sikes  
1795 Peachtree Rd., NE  
Atlanta, Georgia 30367

Nolan B. Harmon, Esquire  
Harmon, Smith & Bridges  
1204 Life of Georgia Tower  
Atlanta, Georgia 30342

Creditors' Committee

The Honorable  
William French Smith  
Attorney General of the  
United States  
10 Constitution Avenue, NW  
Washington, D.C. 20530

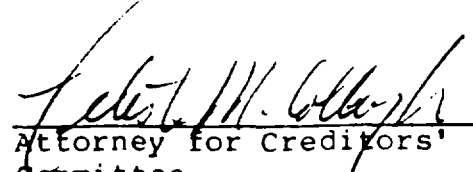
The Honorable  
William D. Ruckelshaus,  
Administrator  
United States Environmental  
Protection Agency  
401 "M" Street, SW  
Washington, D.C. 20460

Roger Grimes, Esquire  
Office of Regional Counsel  
(5C-16)  
230 S. Dearborn Street  
Chicago, Illinois 60604

R. Neal Batson, Esquire  
Alston & Bird  
1200 C&S Nat'l. Bank Bldg.  
35 Broad Street  
Atlanta, Georgia 30335

The Honorable  
Larry D. Thompson,  
United States Attorney  
Northern District of Georgia  
U.S. Attorney's Office  
Suite 1800  
75 Spring Street, SW  
Atlanta, Georgia 30335

This the 26<sup>th</sup> day of March 1984.

  
\_\_\_\_\_  
Attorney for Creditors'  
Committee